

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXASEAST

SHERMAN DIVISION

FEB 19 2004

BY DAVID J. MOORE
DEPUTY

UNITED STATES OF AMERICA

vs.

JAMES NAPLES (1), NEW BOSTON
GENERAL HOSPITAL, INC. (2),
FREDERICK DAY (3), GLENN
FEEBACK (4), PHILIP HAHN (5),
GREGG PETTY (6), LINDA
VELVIN (7), JOHN WHITE (8),
CYNTHIA CAPPS (9), and
SHANNON RICHARDSON (10)

No. 4:04-

(Judge FOLSOM)

~~SEALED~~
unsealed 3/11/04

INDICTMENT

The United States Grand Jury Charges:

COUNT 1

Violation: Title 18, U.S.C. §1962(d)
(Conspiracy to Operate a Racketeer
Influenced and Corrupt
Organization) and §2 (Aiding and
Abetting)

DEFINITIONS

1. Medicare. The Medicare program is a federally funded health insurance program funded by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), formerly known as Health Care Finance Administration (HCFA). The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services contracts with private insurance companies, referred to as "Medicare Carriers" to administer the Medicare program

in certain states. In the State of Texas, CMS contracted with Blue Cross Blue Shield of Texas until October of 1999, and thereafter with TrailBlazer Health Enterprises, LLC located in Dallas, Texas ["Trailblazers"] to administer and pay Medicare claims submitted by physicians and other health care providers for Texas Medicare beneficiaries. In the State of Arkansas, CMS contracted with Arkansas Blue Cross and Blue Shield to administer and pay Medicare claims submitted by physicians and other health care providers for Arkansas Medicare beneficiaries. The purpose of the Medicare program is to pay for reasonable and necessary medical services provided to Medicare beneficiaries. In order to participate in the Medicare program, the provider must submit an application for a provider number and be assigned a provider number. The provider number must be used on all claim forms filed with Medicare to identify the provider of the services. CMS makes a determination as to which medical services are covered, the criteria for coverage and the amounts paid for each service. The covered services are assigned an identifying code called a procedure code. The provider submits a claim for the service provided by entering the procedure code on the Medicare claim. The amount paid for the service depends upon the procedure code of the service provided. When a physician becomes a Medicare provider, he or she is provided with a book of rules and regulations called the Medicare Part B Handbook for Physicians and Suppliers. Medicare program rules are published in the Part B Handbook and are codified in the Code of Federal Regulations. Rules are further clarified for physicians in periodic Medicare Newsletters published for the benefit of providers. Medicare

regulation specifically prohibits Medicare payments for routine foot care. Though exceptions may apply, as a general rule physicians are not permitted to bill for services which they do not personally render. One exception to this rule is that if a resident participates in a service furnished in a teaching setting, then the teaching physician may bill for that service but only if the teaching physician is present during the key portion of the service for which payment is sought.

2. The Medicare program is really 3 programs named Medicare Part A, Medicare Part B and Medicare Part C.
 - a) Medicare Part A is the Hospital Insurance Program and covers inpatient hospital care, skilled nursing care, home health care and hospice services.
 - b) Medicare Part B is Supplemental Medical Insurance and helps to pay for physicians' services, outpatient hospital services, renal dialysis, speech and physical therapy, ambulatory surgery, home health services, durable medical equipment, rural health clinic services, comprehensive outpatient rehabilitation facility services, and some diagnostic tests.
 - c) Medicare Part C is known as the Medicare + Choice managed care program. Under this program Medicare contracts with a variety of prepaid health plans to provide care to the plan beneficiaries.
3. Medicaid. Medicaid programs are cooperative state-federal programs designed to furnish medical assistance to the indigent. They are health care benefit programs and are funded primarily by the United States Government and administered by the respective states. The Medicaid program helps pay for reasonable and necessary medical procedures and services provided to individuals who are deemed eligible

under state low income programs. The Texas Health and Human Services Commission, which administers the Medicaid program in Texas, contracts with Texas Medicaid and Healthcare Partnership (TMHP), formerly National Heritage Insurance Corporation (NHIC), to receive, process, and pay Medicaid claims submitted to NHIC by Medicaid providers or suppliers of services. The Arkansas Department of Human Services, which administers the Medicaid program in Arkansas, contracts with Electronic Data Systems (EDS) to receive, process, and pay Medicaid claims submitted to EDS by Medicaid providers or suppliers of services. Medicaid providers such as medical doctors and podiatrists sign a provider agreement with the respective state administrative agency to abide by the terms and conditions of the state Medicaid program and are furnished a copy of the Medicaid provider procedure manual as well as periodic bulletins and updates. Medicaid providers are also assigned a Medicaid provider number. Medicaid regulations require that a provider document every service rendered to a patient for which a bill is submitted to either Medicare or Medicaid. This documentation is required to be kept in the patient's medical records and must be retained by the provider for a period of not less than five (5) years.

4. The TRICARE program, formerly referred to as the Civilian Health and Medical Plan for the Uniformed Services (CHAMPUS) is a federally funded, statutory health benefits entitlement program for eligible beneficiaries (members of the Uniformed Services, family members, spouses and children of active duty uniformed services personnel, retirees and their spouse and dependent children, and spouses and children of deceased retired uniformed services personnel).

CHAMPUS became known as TRICARE in approximately 1995. The TRICARE Management Activity no longer uses the acronym CHAMPUS, however, most regulatory and policy instruments still contain these acronyms. Any reference to CHAMPUS is synonymous with TRICARE. Health care providers who wish to participate in the TRICARE program are assigned a "provider number," which is typically the provider's Employer Identification Number (hereinafter "EIN"), Taxpayer Identification Number, or Social Security Number. The provider number is used to differentiate the provider's billings from those of other health care providers or facilities. A provider number is assigned to a health care provider for reimbursement of health care services rendered to a beneficiary.

TRICARE, through paragraph (a)(8) of 32 CFR 199.6, requires that the provider of any services rendered to TRICARE beneficiaries be specified on the claim form. Paragraph (a) requires that the claim certify "that the specific medical care on the claim form was, in fact, rendered to the specific beneficiary for which benefits are being claimed, on the specific date or dates indicated, at the level indicated and by the provider signing the claim unless the claim otherwise indicates another individual provided the care".

5. Health Care Benefit Program. Medicare, Medicaid, and private health insurers offering plans or contracts which affect commerce are "health care benefit programs" as defined by Title 18, United States Code Section 24(b).
6. Explanation of Benefits. An Explanation of Medicare Benefits (EOB) is a document sent to Medicare or private health insurance beneficiaries informing them of the service(s) billed by the provider and the amount, if any, paid. An EOB is

also sent to the provider indicating the services paid for by Medicare or the private insurer.

7. Podiatry. The diagnosis, treatment and prevention of conditions of human feet.
8. Podiatrist. One who practices podiatry.
9. The academic suffix "D.P.M." signifies that the person so designated has received a diploma as a Doctor of Podiatric Medicine. A person receives such a diploma after graduating from a School of Podiatric Medicine. The holder of a D.P.M. degree may not actually practice podiatry unless and until he or she is licensed by the state licensing authority. Though holders of the D.P.M. are considered "physicians," they hold a limited license. Their license to practice medicine is limited to the foot and ankle. They are neither qualified nor licensed to engage in a general practice of medicine.
10. The academic suffix "M.D." signifies that the person so designated has received a diploma as a Doctor of Medicine. A person receives such a diploma after graduating from a School of Medicine. The holder of an M.D. degree may not actually practice medicine unless and until he or she is licensed by the state licensing authority. Holders of the M.D. degree are considered "physicians" and their license to practice medicine is not limited.
11. A Residency Program is a period of on-the-job training, usually post-graduate, which may be part of the formal educational program for health care professionals. A podiatric residency program is likewise a period of on-the-job training for those who aspire to practice podiatry. Expenses for a qualifying podiatric residency program are reimbursed under Medicare Part A.

12. A Podiatric Resident is a participant in a podiatric residency program.
13. Physiatrics. The curing of disease by natural methods, esp. physical therapy.
14. Physiatrist. One who practices physiatrics.
15. Oncologist. A medical doctor (M.D.) who has advanced training in and specializes in the treatment of tumors and cancer.
16. *Locum Tenens*. *Locum tenens* is a term of art in the medical billing field and refers to a substitute physician who temporarily takes over a practice when the regular physician is absent. Medicare and Medicaid recognize the practice but impose several requirements upon both the regular and substitute physician before the regular physician is permitted to bill for services which he or she did not personally provide. *Locum tenens* billing is also referred to as "reciprocal billing." Reciprocal billing of Medicare, if proper, is paid under Medicare Part B.
17. An Investigational New Drug Application ("IND") is submitted to the FDA if a sponsor intends to conduct a clinical investigation with an investigational new drug.
18. Investigational New Drug means a new drug, antibiotic drug, or biological drug that is used in a clinical investigation.
19. A clinical investigation means any experiment in which a drug is administered or dispensed to, or used involving, one or more human subjects. An experiment is any use of a drug except for the use of a marketed drug in the course of medical practice.
20. Motion to Quash. A Motion to Quash is a legal document filed with a court requesting that the Court relieve a person served with a subpoena or other legal

process from the duty to comply. If the Court grants the Motion to Quash, the person is relieved of the duty to comply with the subpoena. If the Court denies the Motion to Quash, the person must comply with the subpoena. If the Court grants the motion in part and denies it in part, then the person is required to comply with the subpoena as directed by the Court.

INTRODUCTION

1. At all times material to this indictment:
 - a. NEW BOSTON GENERAL HOSPITAL, INC. ["the hospital"] was a hospital doing business as Doctor's Hospital located in New Boston, Texas owned or controlled, directly or indirectly, by JAMES NAPLES.
 - b. Ramchandra Gurav, M.D was a part owner and employee of NEW BOSTON GENERAL HOSPITAL, INC. whose office was located in the professional building attached to the hospital. He holds himself out as an obstetrician – gynecologist. He was responsible for covering the hospital emergency room and for doing initial patient assessments upon admission to the hospital, something that the podiatrists and podiatric residents at the hospital were not qualified to do.
 - c. Specialty Foot Clinic, also known as Total Family Foot Care, was a podiatric clinic operated principally by JAMES NAPLES, D.P.M. and located at 701 W. 14th Street, Texarkana, Texas.
 - d. Doctor's Foot Clinic, was a podiatric clinic operated principally by FREDERICK DAY, D.P.M. and located at 3339 Central Ave, Suite F. Hot Springs, Arkansas.

- e. The Foot Clinic, was a podiatric clinic operated principally by GLEN FEEBACK, D.P.M. and located at 2700 Richmond Road. Suite 13. Texarkana, Texas.
 - f. Regional Foot and Ankle Clinic. was a podiatric clinic operated principally by PHILIP HAHN, D.P.M. and JOHN WHITE, D.P.M. and located at 701 Arkansas Blvd., Texarkana, Arkansas.
 - g. Doctor's Foot Clinic, was a podiatric clinic operated principally by GREGG PETTY, D.P.M. and located at 3211 Sugar Hill Road, Texarkana, Arkansas.
 - h. Texarkana Immediate Care was a clinic operated principally first by Joseph Greenspan, M.D located at 1314 Main Street, Texarkana, Texas. After the death of Joseph Greenspan, M.D., GREGG PETTY, D.P.M. operated a podiatric clinic from that location.
 - i. A billing office which handled billing for various podiatric clinics was located at 406 Walnut St., Texarkana, Arkansas and will be referred to as the "clinic billing office."
 - j. A billing office which handled billing for NEW BOSTON GENERAL HOSPITAL, INC. was located on the hospital premises and will be referred to as the "hospital billing office."
2. In or about January, 2001 Federal criminal investigators with the Federal Bureau of Investigation (hereafter "FBI") received information that DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC. and others were illegally treating cancer patients and others with a chemical used in pesticides and wood preservatives named 2,4-dinitrophenol, hereafter referred to as DNP. The FBI had

also received information that one or more persons afflicted with cancer had died undergoing such treatment. This treatment program will hereafter be referred to as the "DNP program."

3. The chemical DNP had not been approved for medical use on humans in the United States by the Federal Food and Drug Administration [hereafter "FDA"]. No Investigational New Drug application [hereafter "IND"] had been filed with the FDA, or approved by it, to legitimize an experimental clinical study.
4. Four persons were principally involved in this DNP program. Those persons were JAMES NAPLES, D.P.M., LINDA VELVIN, Nicholas Bachynsky, M.D., and Joseph Greenspan, M.D. Nicholas Bachynsky and Joseph Greenspan are unindicted co-conspirators. None of these persons engaged in this DNP program were qualified to conduct it. No one, including JAMES NAPLES, Nicholas Bachynsky and Joseph Greenspan, was qualified to conduct the experimental program because it had not been approved by the FDA. JAMES NAPLES was additionally unqualified because he was a podiatrist, a person whose license was limited to treatment of the foot and ankle. The treatment of patients for cancer, or other illnesses beyond the foot and ankle, was beyond the scope of his podiatric license. Nicholas Bachynsky was additionally unqualified because his license to practice medicine in Texas had been revoked upon his previous federal conviction for operating a Racketeer Influenced Corrupt Organization. LINDA VELVIN was not qualified to act as treating physician because she was not a licensed medical doctor. She was not qualified to administer DNP because the chemical was unapproved and she had no qualified supervisor.

5. During the initial course of the investigation the FBI also uncovered evidence of health care billing fraud, that is, fraudulent claims against one or more health care benefit programs.
6. On November 1, 2001 the Federal Grand Jury sitting in Sherman, Texas, issued the first of many subpoenas compelling the production of records relating to the investigation. Also on that date, Federal investigators received Court authority to execute search warrants at seven locations associated with the DEFENDANTS herein. On November 6, 2001 Federal law enforcement officers executed those warrants and seized thousands of documents.
7. In December, 2001, shortly after the execution of the search warrants in this case, Joseph Greenspan, M.D. committed suicide. He is referred to herein as an unindicted coconspirator.
8. The investigators set about reviewing the seized records for evidence, and reviewing other records which had been subpoenaed by the Federal Grand Jury.

THE RACKETEERING CONSPIRACY

1. From a date unknown to the Grand Jury but at least since 1998, up to and including the date of the filing of this Indictment, both dates being approximate and inclusive, in Grayson County, Texas within the Eastern District of Texas and elsewhere, DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC., FREDERICK DAY, GLENN FEEBACK, PHILIP HAHN, GREGG PETTY, JOHN WHITE, and others both known and unknown, being persons employed by and associated with the NAPLES ORGANIZATION, which enterprise was engaged in, and the activities of which affected, interstate and foreign commerce, knowingly, and

intentionally conspired to violate 18 U.S.C. §1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity, as that term is defined in §1961(1) and §1961(5) of Title 18, United States Code, consisting of multiple acts indictable under the following provisions of federal law:

- a. 18 U.S.C. §1341 (mail fraud);
 - b. 18 U.S.C. §1343 (wire fraud);
 - c. 18 U.S.C. §1503 (obstruction of justice); and
 - d. 18 U.S.C. §1512 (obstruction of justice);
2. It was further part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

THE ENTERPRISE

1. At various times relevant to this Indictment, DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC., FREDERICK DAY, GLENN FEEBACK, PHILIP HAHN, GREGG PETTY, JOHN WHITE, and others known and unknown, were members and associates of the NAPLES ORGANIZATION, a criminal organization whose members and associates engaged in acts of mail fraud, wire fraud, and obstruction of justice, and which operated principally in the Eastern District of Texas.
2. The NAPLES ORGANIZATION including its leadership, members and associates, constituted an "enterprise," as defined by Title 18, United States Code, Section 1961(4) (hereinafter "the enterprise"), that is, a group of individuals associated in fact. The

enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise. This enterprise was engaged in, and its activities affected, interstate and foreign commerce.

PURPOSES OF THE ENTERPRISE

1. The purposes of the enterprise included the following:
 1. Enriching the members and associates of the enterprise through, among other things, mail and wire fraud, and
 2. Promoting, enhancing and protecting the enterprise and its members' and associates' activities.

ROLES OF THE DEFENDANTS

1. The DEFENDANTS participated in the operation and management of the enterprise.
2. The DEFENDANT JAMES NAPLES was a leader of the enterprise who directed other members of the enterprise in carrying out unlawful and other activities in furtherance of the conduct of the enterprise's affairs.
3. Under the direction of the leader of the enterprise, the DEFENDANTS NEW BOSTON GENERAL HOSPITAL, INC., FREDERICK DAY, GLENN FEEBACK, PHILIP HAHN, GREGG PETTY, and JOHN WHITE participated in unlawful and other activities in furtherance of the conduct of the enterprise's affairs.
4. JAMES NAPLES was President and CEO of NEW BOSTON GENERAL HOSPITAL, INC. and made management and other decisions on behalf of the

corporation. NEW BOSTON GENERAL HOSPITAL, INC. entered into income splitting contracts or partnership agreements with DEFENDANTS FREDERICK DAY, GLENN FEEBACK, PHILIP HAHN, GREG PETTY, and JOHN WHITE wherein each DEFENDANT agreed to split income with NEW BOSTON GENERAL HOSPITAL, INC. in exchange for the provision of certain services by NEW BOSTON GENERAL HOSPITAL, INC. NEW BOSTON GENERAL HOSPITAL, INC. provided one or more physical locations for the practice of each DEFENDANT. JAMES NAPLES, or one or more entities controlled by him, in some cases also provided houses and cars to the DEFENDANT podiatrists. A central billing office staffed by employees of NEW BOSTON GENERAL HOSPITAL, INC., handled all billings generated by the DEFENDANT podiatrists.

MEANS AND METHODS OF THE ENTERPRISE

1. Among the means and methods by which the defendants and their associates conducted and participated in the conduct of the affairs of the enterprise were the following:
 - a. Members of the enterprise and their associates used, attempted to use, and conspired to use, acts of mail and wire fraud in conducting the affairs of the enterprise.
 - i. Specifically, between on or about January 1, 1998 through on or about February, 2000 the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. and Nicholas Bachynsky and Joseph Greenspan, unindicted coconspirators, took and received from the mail, payment on claims to Medicare and private insurers for an experimental and unapproved cancer

treatment with a chemical designated as a Class V poison by the FDA and unapproved for medical use on humans without having first advised Medicare and private insurers that the treatment was experimental and unapproved.

- ii. On or about January, 1997 and continuing thereafter, the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC., FREDERICK DAY, GLENN FEEBACK, PHILIP HAHN, GREGG PETTY and JOHN WHITE, took and received from the mail payment on claims to Medicare, Medicaid, Tricare and private insurers for podiatric services which they claimed to have rendered, but which they did not render because they were not present, were out of town or were otherwise not immediately available. In most cases the podiatric services were actually rendered by an unsupervised podiatric resident. The services of podiatric residents are compensated under Medicare Part A. Double billing under Medicare Part B by a podiatrist for services performed by an unsupervised resident were not justified under any regulatory exception or as payment for *locum tenens* or substitute physicians services.
- iii. On or about October, 1999 and continuing thereafter, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC., took and received from the mail payment on inflated claims to private insurers for charges associated with

outpatient surgical care which they claimed had been incurred but which, in fact, had not been incurred in the amounts claimed and for which there was often either misleading, or no, supporting documentation.

b. Members of the enterprise and their associates engaged in acts of obstruction of justice in the conduct of the affairs of the enterprise and also to conceal the enterprise's criminal operations from an on-going criminal investigation. Specifically,

i. Engaged in misleading conduct toward another person with the intent to influence, prevent or delay the testimony of a person in an official proceeding;

ii. Corruptly obstructed, influenced, impeded an official proceeding. and attempted to do so, by, among other means,

1. paying and promising to pay witnesses and potential witnesses in order to influence their testimony;

2. engaging in conduct intended to threaten and intimidate witnesses and potential witnesses;

3. tampering with evidence;

4. refusing to produce, and delaying the production of, evidence to the Federal Grand Jury and Federal Criminal Investigators;

5. giving false and misleading testimony in official proceedings before a Federal Grand Jury or Federal District Court;

All in violation of Title 18, United States Code, Section 1962(d).

COUNT 2

Violation: Title 18, U.S.C. §371
(Conspiracy to Obstruct Justice in
violation of Title 18, U.S.C.
§1503; Obstruction of Criminal
Investigations in violation of Title
18, U.S.C. §1510(a);
Obstruction of Justice in violation
of Title 18, U.S.C. §1512;
Obstruction of Criminal
Investigations of Health Care
Offenses in violation of Title 18,
U.S.C. §1518; Destruction,
Alteration and Falsification of
Records in Federal Investigations
in violation of Title 18, U.S.C.
§1519; Perjury in violation of Title
18, U.S.C. §1623; Bribery in
violation of 18 U.S.C. §201(b)(3))
and §2 (Aiding and Abetting)

INTRODUCTION

The Definitions section of Count 1 of this Indictment is realleged and incorporated by reference as though fully set forth herein.

The Introduction section of Count 1 of this Indictment is realleged and incorporated by reference as though fully set forth herein.

THE CONSPIRACY

On or about December 2001 to November 2003 in Grayson County, Texas, within the Eastern District of Texas, and elsewhere, the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC., CYNTHIA CAPPS and SHANNON RICHARDSON willfully conspired with each other and with others, both known and unknown to the Grand Jury, to commit certain offenses against the United States, namely:

1. Obstruction of Justice, to-wit, to corruptly influence. obstruct and impede, and endeavor to corruptly influence, obstruct and impede the due administration of justice in violation of Title 18, U.S.C. §1503;
2. Obstruction of Criminal Investigations, to wit, to willfully endeavor by means of bribery to obstruct, delay and prevent the communication of information relating to any violation of a criminal statute of the United States by any person to a criminal investigator in violation of Title 18, U.S.C. §1510;
3. Obstruction of Justice, to-wit, to knowingly engage in misleading conduct toward another person with the intent to influence, delay or prevent the testimony of a person in an official proceeding in violation of Title 18, U.S.C. §1512(b)(1);
4. Obstruction of Justice, to-wit, to corruptly alter, destroy, mutilate or conceal a record, document, or other object, or attempt to do so, with the intent to impair the object's integrity or availability for use in an official proceeding in violation of Title 18, U.S.C. §1512(c)(1);
5. Obstruction of Justice, to-wit, to corruptly influence, obstruct and impede, and endeavor to corruptly influence. obstruct and impede an official proceeding in violation of Title 18, U.S.C. §1512(c)(2);
6. Obstruction of a health care fraud investigation, to-wit, to willfully prevent, obstruct, mislead, delay and attempt to do so, the communication of information or records relating to a violation of a

Federal health care offense to a criminal investigator in violation of Title 18, U.S.C. §1518;

7. Destruction, alteration and falsification of records in a federal investigation, to-wit, to knowingly alter, destroy, cover up, falsify, or make a false entry in a record, document or tangible object with the intent to impede, obstruct or influence a federal investigation in violation of Title 18, U.S.C. §1519;
8. Perjury, to-wit: while under oath in a proceeding before or ancillary to a Court and Grand Jury of the United States, knowingly make false material declarations, and make and use other information, knowing same to contain any false material declaration in violation of Title 18, U.S.C. §1623.
9. Bribery, to-wit: corruptly gave, offered and promised something of value to persons with the intent to influence their testimony under oath or affirmation upon a trial, hearing or other proceeding, before any court, any agency, commission or officer authorized by the laws of the United States to hear evidence or take testimony in violation of Title 18 U.S.C. §201(b)(3).

MANNER AND MEANS

The DEFENDANTS agreed, by their own acts and by the acts of others on their behalf, to corruptly influence, obstruct and impede the due administration of justice by

1. paying witnesses and potential witnesses in a federal criminal investigation monies for the purpose of influencing their testimony or possible testimony;
2. failing and refusing to produce records required to be produced under Grand Jury subpoena and court order;
3. engaging in a pattern of resistance to Grand Jury subpoenas and court orders for the production of evidence and testimony;
4. intimidating and attempting to intimidate witnesses and potential witnesses in a federal criminal investigation;
5. manufacturing evidence intended to influence a federal criminal investigation;
6. altering, destroying, concealing, and falsifying records, documents and tangible evidence with the intent to impede and influence a federal criminal investigation; and
7. falsely testifying under oath before the Grand Jury and the Court, and also making false representations to the Court while not under oath, with the intent to impede and influence a federal criminal investigation.

OVERT ACTS

1. On or about August 24, 1998, DEFENDANT JAMES NAPLES corruptly obstructed, influenced, impeded, and attempted to do so, an official proceeding, namely a sentencing proceeding of Mark Vicini in the case styled United States v. Mark Vicini, Cause No. 97 CR 684 which was then pending in the United States District Court, Eastern

District of New York, by giving false and misleading information to the Court regarding a medical research project led by JAMES NAPLES.

2. In or about 2001, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC., knowing that they were the subjects of a federal criminal investigation into the unapproved use of an FDA Class V poison on humans as a therapy for various ailments including cancer, HIV, hepatitis, weight loss and impotence, removed the chemical from the premises of NEW BOSTON GENERAL HOSPITAL, INC. by making an unauthorized return of said hazardous chemical to their supplier.
3. On or about December 31, 2001, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC., corruptly and by threats and threatening communication, endeavored to influence, obstruct, and impede the due administration of justice by causing a person to threaten Becky Bourgeson a former employee of DEFENDANT NEW BOSTON GENERAL HOSPITAL, INC.
4. On or about March, 2002, DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. directly or indirectly, corruptly gave, offered and promised something of value to persons, namely, podiatric residents with the intent to influence the testimony under oath or affirmation of said persons upon a trial, hearing or other proceeding, before any court, any agency, commission or officer authorized by the laws of the United States to hear evidence or take testimony.

5. On or about March, 2002, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. through their agent Craig Henry, knowingly engaged in misleading conduct toward another person with the intent to influence, delay, or prevent the testimony of a person in an official proceeding, and attempted to do so, by causing witnesses and potential witnesses in a federal criminal investigation to submit to depositions in response to notices of deposition issued under the putative authority of the 102nd Judicial District Court of Bowie County, Texas in the civil suit styled Andrade v. Naples, et al. cause no. 01-C-1681-102 when in fact those persons deposed were not witnesses in the civil suit in which they were deposed and the depositions taken were not taken to be used in that civil suit.
6. On or about March, 2002, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. through their agent Craig Henry, corruptly obstructed, influenced and impeded an official proceeding, and attempted to do so, by seeking to prevent or delay compliance with Grand Jury Subpoena #504-63 by Sandra McKinnon.
7. On or about March, 2003 and thereafter, DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. directly or indirectly, corruptly gave, offered and promised something of value to a person, namely, Brad Young with the intent to influence the testimony under oath or affirmation of said person upon a trial, hearing or other proceeding, before any court, any agency, commission or officer

authorized by the laws of the United States to hear evidence or take testimony.

8. Between on or about February, 2003 and April, 2003, the DEFENDANTS JAMES NAPLES, and NEW BOSTON GENERAL HOSPITAL, INC. through their agent David Cole, corruptly obstructed, influenced and impeded an official proceeding, and attempted to do so. by knowingly failing and refusing to produce, and delaying the production of, trip logs, otherwise known as passenger manifests, required to be produced by Grand Jury Subpoena #504-196 and by Court Order dated August 18, 2003.
9. On March 13, 2003, Mark Leshner, esq. unreasonably refused to answer questions propounded before the Federal Grand Jury relevant to the ongoing Federal criminal investigation by frivolously invoking privileges later withdrawn.
10. On April 11, 2003, Kaycie Foster, an employee of DEFENDANT NEW BOSTON GENERAL HOSPITAL, INC. unreasonably refused to answer questions propounded before the Federal Grand Jury relevant to the ongoing Federal criminal investigation.
11. On April 10, 2003 SHANNON RICHARDSON committed perjury, to-wit: SHANNON RICHARDSON, having taken an oath to tell the truth, testified falsely regarding her participation in patient care. Specifically, on April 10, 2003 SHANNON RICHARDSON testified that patients of JOHN WHITE were never treated in the absence of JOHN WHITE when

in truth and in fact SHANNON RICHARDSON well knew that patients were treated by podiatric residents in the absence of JOHN WHITE. The false testimony was material to that portion of the investigation concerning whether or not DEFENDANTS JAMES NAPLES, FREDERICK DAY, GLENN FEEBACK, PHILIP HAHN, GREG PETTY, and JOHN WHITE made false claims for services.

12. On or about April 16, 2003, Kyle Davis, esq., on behalf of JAMES NAPLES, CEO and NEW BOSTON GENERAL HOSPITAL, INC. filed a Motion to Quash Grand Jury Subpoena #504-209 and demanded an opportunity to present evidence in support of that motion. The Court scheduled an evidentiary hearing at Kyle Davis' request for April 23, 2003. On that date, Kyle Davis, esq. and Craig Henry, esq. appeared on behalf of JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC.. Though given the opportunity to do so, they wholly failed to present any evidence at the evidentiary hearing they had requested in support of their Motion to Quash. The Court found that JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. had failed to sustain their burden to prove that the subpoena should be quashed and denied the Motion to Quash. The Court ordered JAMES NAPLES AND NEW BOSTON GENERAL HOSPITAL, INC. to comply with the subpoena. The JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. filed the Motion to Quash with the intent to impede and delay a federal criminal investigation.

13. Between on or about March, 2003 and June, 2003, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. through their agent Sara Davis, corruptly obstructed, influenced and impeded an official proceeding, and attempted to do so, by delaying the production to the Federal Grand Jury of pharmacy records.
14. On or about June 10, 2003, Kyle Davis, esq. on behalf of JAMES NAPLES, CEO and NEW BOSTON GENERAL HOSPITAL, INC., having been served with Grand Jury Subpoena #504-216 some three weeks earlier, filed a Motion to Quash that Grand Jury subpoena two days before compliance was due. When asked by the District Court why he had delayed so long in filing his Motion to Quash, Mr. Davis responded, among other things, "To tell you the truth, I just now got around to it." The Court denied the motion and ordered JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. to comply with the subpoena. JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. filed the Motion to Quash with the intent to impede and delay a federal criminal investigation.
15. Between on or about February, 2003 and August, 2003, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. corruptly obstructed, influenced and impeded an official proceeding, and attempted to do so, by knowingly failing and refusing to produce, and delaying the production of, billing and medical

files and records required to be produced by Grand Jury Subpoena #504-216 and by Court Order dated June 10, 2003.

16. NEW BOSTON GENERAL HOSPITAL, INC. committed perjury through its agent, Sharon Averitt, to-wit: Sharon Averitt, having taken an oath to tell the truth, made two or more declarations which were irreconcilably inconsistent to the degree that one of them is necessarily false. The testimony concerned whether NEW BOSTON GENERAL HOSPITAL, INC. produced the original file folders for the records which it produced on June 13, 2003 pursuant to Grand Jury Subpoena #504-216 and Court Order dated June 10, 2003. Specifically, on August 23, 2003, Sharon Averitt testified that NEW BOSTON GENERAL HOSPITAL, INC. had not produced any original file folders for the files produced on June 13, 2003. On or about October 9, 2003, Sharon Averitt testified that NEW BOSTON GENERAL HOSPITAL, INC. had produced original file folders for all but a small portion of those files. The inconsistent testimony was material to that portion of the investigation concerning whether or not DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. were engaged in fraudulent "up charging" of outpatient surgeries.
17. NEW BOSTON GENERAL HOSPITAL, INC. committed perjury through its agents, Sharon Averitt and Gayla Lancaster, to-wit: Sharon Averitt and Gayla Lancaster, having taken an oath to tell the truth, made two or more declarations which were irreconcilably inconsistent to the

degree that one of them is necessarily false. The testimony concerned whether original file folders for a small portion of the business files produced on June 13, 2003 had been withheld because they were "active files." Specifically, on June 13, 2003 Sharon Averitt testified that NEW BOSTON GENERAL HOSPITAL, INC. had withheld those original file folders because they were "active files." On or about October 9, 2003 Gayla Lancaster testified that many of the so-called "active files" were not active files; that none of the so-called "active files" were actively worked; and that the so-called "active files" were, in fact, locked in a room to which none of the persons who would have been responsible for actively working the files had access. The inconsistent testimony was material to that portion of the investigation concerning whether or not DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. were engaged in fraudulent "up charging" of outpatient surgeries.

18. Between on or about February, 2003 and August, 2003, the DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. corruptly altered, destroyed, mutilated and concealed a record, document or other object, namely evidence of "up charging" in outpatient surgery billing files, with the intent to impair the object's integrity and availability for use in an official proceeding, namely, Grand Jury Investigation #504 by removing, or causing to be removed, evidence of "up charging" from the files.

19. Between on or about July, 2003 up to and including the filing of this indictment, the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC. and CINDY CAPPS, corruptly obstructed, influenced and impeded an official proceeding, and attempted to do so, by delaying the production to the Federal Grand Jury of clinic records responsive to Grand Jury Subpoena #504-227.
20. Between on or about August, 2003 and January, 2004, the DEFENDANTS JAMES NAPLES, and NEW BOSTON GENERAL HOSPITAL, INC. through their agents Kyle Davis and Sara Davis, corruptly obstructed, influenced and impeded an official proceeding, and attempted to do so, by delaying the production to the Federal Grand Jury of hospital records responsive to Grand Jury Subpoena #504-232.
21. CYNTHIA CAPPS and NEW BOSTON GENERAL HOSPITAL, INC. committed perjury, to-wit: CYNTHIA CAPPS, having taken an oath to tell the truth, made two or more declarations which were irreconcilably inconsistent to the degree that one of them is necessarily false. The testimony concerned whether JAMES NAPLES was personally involved in the production of records by JAMES NAPLES in response to Grand Jury Subpoena #504-227. Specifically, on September 12, 2003, CYNTHIA CAPPS testified that JAMES NAPLES was personally involved in the production of records in response to Grand Jury Subpoena # 504-227. On or about January 20, 2004 CYNTHIA CAPPS testified that JAMES NAPLES had not been personally involved in the

production of records in response to Grand Jury Subpoena # 504-227.

The inconsistent testimony was material to that portion of the investigation concerning whether or not DEFENDANT JAMES NAPLES obstructed justice by delaying and hindering the production of records to the Grand Jury.

All in violation of Title 18, U.S.C. §371 and 2.

COUNT 3

Violation: Title 18, U.S.C. §371
(Conspiracy to Commit Health
Care Fraud in violation of Title 18,
U.S.C. §1347; Mail Fraud in
violation of Title 18, U.S.C.
§1341; and Wire Fraud in
violation of Title 18, U.S.C.
§1343) and §2 (Aiding and
Abetting)

The Definitions section of Count 1 of this Indictment is realleged and incorporated by reference as though fully set forth herein.

The Introduction section of Count 1 of this Indictment is realleged and incorporated by reference as though fully set forth herein.

THE CONSPIRACY

On or about August 1997 to December 2001 in the Eastern District of Texas, and elsewhere, the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC., FREDERICK DAY, GLENN FEEBACK, PHILIP HAHN, GREGG PETTY, and JOHN WHITE, willfully conspired with each other and with others, both known and unknown to the Grand Jury, to commit certain offenses against the United States, namely:

Health care fraud, to-wit, to knowingly and willfully execute and attempt to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money or property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services in violation of Title 18, U.S.C. §1347;

Wire fraud, to-wit, having devised and intended to devise a scheme or artifice to defraud, and for obtaining money or property by means of false or fraudulent pretenses, representations or promises, transmitted or caused to be transmitted by means of wire communication in interstate commerce writings, signs and signals for the purpose of executing, and attempting to execute, said scheme or artifice in violation of Title 18, U.S.C. §1343.

Mail fraud, to-wit: having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing, and attempting to execute, such scheme and artifice and attempting to do so, knowingly caused to be delivered by mail or private or commercial interstate carrier any matter or thing according to the direction thereon in violation of Title 18, U.S.C. §1341.

MANNER AND MEANS

The DEFENDANTS agreed amongst themselves to use residents from the podiatric residency training program operated under the auspices of NEW BOSTON GENERAL HOSPITAL, INC. to provide podiatric care to patients in their absence. Podiatric residents would be assigned to "cover" a clinic for a podiatrist who was absent and otherwise not immediately available. The podiatric resident would render podiatric services to the patients. The DEFENDANTS would submit claims for services electronically or by mail or commercial carrier as if he, and not a podiatric resident, had performed those services himself. DEFENDANTS submitted fraudulent claims in this manner in the total amount of approximately \$151,000.

OVERT ACTS

Between on or about September 1997 and December 2001, the DEFENDANTS, submitted claims for podiatric services rendered by them which were rendered in their absence by one or more persons enrolled in a residency training program of NEW BOSTON GENERAL HOSPITAL, INC. on the dates and for the patients listed in Counts 9 through 133 which are hereby incorporated by reference as if fully set out herein and also on the dates and for the patients listed below:

Overt Act	Last Name	First Name	Date	Claimant
1	Barnett	Lexie	09/12/1997	Naples
2	Crayton	Lewis	09/12/1997	Naples
3	Haynie	Bonnie	09/12/1997	Naples
4	Ingram	Estelle	09/12/1997	Naples
5	Kemp	Finis	09/12/1997	Naples
6	Avery	Margie	02/16/1998	White
7	Pratt	Billie	02/19/1998	White
8	Williamson	Lily	02/19/1998	White
9	Dixon	Nancy	04/03/1998	Naples
10	Garner	Pearl	04/03/1998	Naples
11	Griffin	James	04/03/1998	Naples

All in violation of Title 18, U.S.C. §371 and §2.

COUNT 4

Violation: Title 18, U.S.C. §1343
(Wire Fraud) and §2 (Aiding and
Abetting)

On or about August 1997 to December 2001 the DEFENDANTS JAMES
NAPLES, NEW BOSTON GENERAL HOSPITAL, INC., FREDERICK DAY, GLENN
FEEBACK, PHILIP HAHN, GREGG PETTY, and JOHN WHITE having devised and
intended to devise a scheme or artifice to defraud, and for obtaining money or property by
means of false or fraudulent pretenses, representations or promises, transmitted or caused
to be transmitted by means of wire communication in interstate commerce writings, signs
and signals for the purpose of executing, and attempting to execute, said scheme or artifice
in violation of Title 18, U.S.C. §1343.

COUNTS 5 – 8

Violation: Title 18, U.S.C. §1347
(Health Care Fraud) and §2
(Aiding and Abetting)

In or about January 1998 through August, 2001 DEFENDANTS JAMES NAPLES. NEW BOSTON GENERAL HOSPITAL, INC. and LINDA VELVIN knowingly and willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money and property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services.

The scheme and artifice to defraud devised by DEFENDANTS consisted of conducting an experimental and FDA unapproved cancer treatment program and the making of health insurance claims for, and the receipt of payment on those claims for an experimental and unapproved cancer treatment of the patients named in Counts 5 – 8 below with a chemical designated as a Class V poison by the FDA and unapproved for medical use on humans without having first advised the health insurance carriers that the treatment was experimental and unapproved and said unapproved treatments resulted in serious bodily injury or death.

Count	Last Name	First Name
5	Furtado	John
6	Caballero	Amanda
7	Plant	Patricia
8	Wormington	Roy

All in violation of Title 18, U.S.C. §1347.

COUNTS 9 – 26

Violation: Title 18, U.S.C. §1347
(Health Care Fraud) and §2
(Aiding and Abetting)

In or about April 1999 through June 2001 DEFENDANTS JAMES NAPLES and NEW BOSTON GENERAL HOSPITAL, INC. knowingly and willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money and property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services to the patients named in Counts 9 – 26 below. The scheme and artifice to defraud is set out in the Manner and Means section of Count 3 and is incorporated by reference as if fully set out herein.

Count	Last Name	First Name	Date
9	General	Willie	03/29/2000
10	Thompson	Ellen	03/29/2000
11	Trevillion	Walton	03/29/2000
12	Jones	Louis	03/29/2000
13	Feeney	William	03/29/2000
14	McMichael	Elby	07/27/2000
15	White	Linda	07/26/2000
16	White	Linda	07/27/2000
17	Ray	Pauline	05/04/2001
18	Lewis	Agnes	05/16/2001
19	Shell	Kathryn	05/16/2001
20	Powell	Elizabelle	05/16/2001
21	Herring	Margaret	05/16/2001
22	Phillips	Mary	05/16/2001
23	Burleson	Brian	06/07/2001
24	Caballero	Ben	06/07/2001
25	Cooley	Michiel	06/07/2001
26	Grissom	Fannie	06/07/2001

All in violation of Title 18, U.S.C. §1347.

COUNTS 27 - 49

Violation: Title 18, U.S.C. §1347
(Health Care Fraud) and §2
(Aiding and Abetting)

In or about May 1999 through April 2001 the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC. and FREDERICK DAY knowingly and willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money and property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services to the patients named in Counts 27 – 49 below. The scheme and artifice to defraud is set out in the Manner and Means section of Count 3 and is incorporated by reference as if fully set out herein.

Count	Last Name	First Name	Date
27	Simmons	Paula	05/19/1999
28	Bowers, Jr.	Leonard	06/22/2000
29	Johnson	Lorraine	06/22/2000
30	Jones	Elizabeth	06/22/2000
31	Nelson	Thelma	06/22/2000
32	Brock	Cleo	09/07/2000
33	Morgan	Johnnie	09/07/2000
34	Alberius	Jesus	09/11/2000
35	Kirsch	Serena	09/11/2000
36	Vaughn	Nancy	09/11/2000
37	Vujnovic	Bosko	09/11/2000
38	Beers	Douglas	10/10/2000
39	Littlejohn	Earl	10/10/2000
40	Oglesby	Edwina	10/10/2000
41	Overton	Wilma	10/10/2000
42	Reynolds	Ina	10/10/2000
43	Burton	Barbara	10/11/2000
44	Hale	Eula	10/11/2000
45	Hughes	Alma	10/11/2000
46	Kimzey	James	10/11/2000
47	Carpenter	Frank	06/24/1999

48	Crow	Virginia	06/24/1999
49	Overton	Wilma	06/24/1999

All in violation of Title 18, U.S.C. §1347.

COUNTS 50 - 69

Violation: Title 18, U.S.C. §1347
(Health Care Fraud) and §2
(Aiding and Abetting)

In or about October 2000 through May 2001 the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC. and GLENN FEEBACK knowingly and willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money and property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services to the patients named in Counts 50 – 69 below. The scheme and artifice to defraud is set out in the Manner and Means section of Count 3 and is incorporated by reference as if fully set out herein.

Count	Last Name	First Name	Date
50	Guest	Zetta	10/30/2000
51	Mitchell	Thomas	10/30/2000
52	Rigdon	Rose	10/30/2000
53	Rowe	Burl	10/30/2000
54	Thompson	Charles	10/30/2000
55	Walsh	Melba	10/30/2000
56	Wilhite	Ottie	01/04/2001
57	Wright	Lorine	01/04/2001
58	Chambers	Gloria	05/14/2001
59	Couch	Clarence	05/14/2001
60	Edwards	Michael	05/14/2001
61	Kirk	Louis	05/14/2001
62	Smith	Dollie	05/14/2001
63	Young	Ruth	05/14/2001
64	Chiarizio	Lois	09/04/2001
65	Cochran	Maurine	09/04/2001
66	Corelius	Mildred	09/06/2001
67	Smith	Irene	09/06/2001
68	McGonegal	Mozelle	09/07/2001
69	Phillips	Paul	09/07/2001

All in violation of Title 18, U.S.C. §1347.

COUNTS 70 - 92

Violation: Title 18, U.S.C. §1347
(Health Care Fraud) and §2
(Aiding and Abetting)

In or about March 1999 through April 2001 the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC. and PHILIP HAHN knowingly and willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money and property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services to the patients named in Counts 70 - 92 below. The scheme and artifice to defraud is set out in the Manner and Means section of Count 3 and is incorporated by reference as if fully set out herein.

Count	Last Name	First Name	Date
70	Stubbs	Mary Helen	03/10/1999
71	Anderson	Lena	03/11/1999
72	Waltz	Justin	03/11/1999
73	Porter	Florence	03/12/1999
74	Rankin	Mary	03/12/1999
75	Burns	Vera	09/23/1999
76	Dibrell	Deonte	09/23/1999
77	Holder	Ocie	09/23/1999
78	Turner	Linda	09/23/1999
79	Pippin	Claude	10/27/1999
80	Shults	Lance	10/27/1999
81	Mathis	Emma	10/28/1999
82	Mathis	Wilbert	10/28/1999
83	McGuire	Lucille	01/12/2000
84	Hooker	Susie	01/13/2000
85	Patterson	Jeanne	01/13/2000
86	Williams	Mary	01/13/2000
87	Williams	Dorothy	01/13/2000
88	Houser	Ethel	01/14/2000
89	Swift	Alma	01/14/2000
90	Chapman	Mary Jane	04/25/2001
91	Cupler	James	04/25/2001
92	Hodge	Lena Elizabeth	04/27/2001

All in violation of Title 18, U.S.C. §1347.

COUNTS 93 - 112

Violation: Title 18, U.S.C. §1347
(Health Care Fraud) and §2
(Aiding and Abetting)

In or about May through October 2000 the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC. and GREGG PETTY knowingly and willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money and property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services to the patients named in Counts 93 – 112 below. The scheme and artifice to defraud is set out in the Manner and Means section of Count 3 and is incorporated by reference as if fully set out herein.

Count	Last Name	First Name	Date
93	Blankenship	Leigh	05/05/2000
94	Foster	Woodrow	05/05/2000
95	Outlaw	Waylon	05/05/2000
96	Parks	J.C.	05/05/2000
97	Battee	Manda	10/23/2000
98	Hayter	Buddy	10/23/2000
99	Massey	Margaret	10/23/2000
100	Murphy	Edd	10/23/2000
101	Roberts	Elnora	10/23/2000
102	Smith	Ida	10/23/2000
103	Barksdale	McKinley	10/24/2000
104	Coats	Frankie	10/24/2000
105	Gray	Gloria	10/24/2000
106	Gray	Willie	10/24/2000
107	Harp	Mary	10/24/2000
108	Herrington	Frances	10/24/2000
109	McIntire	Ruth	10/24/2000
110	McPherson	Laverne	10/24/2000
111	Minter	Reta	10/24/2000
112	Robinson	Ruby	10/24/2000

All in violation of Title 18, U.S.C. §1347.

COUNTS 113 - 133

Violation: Title 18, U.S.C. §1347
(Health Care Fraud) and §2
(Aiding and Abetting)

In or about March 2000 through July 2001 the DEFENDANTS JAMES NAPLES, NEW BOSTON GENERAL HOSPITAL, INC. and JOHN WHITE knowingly and willfully executed and attempted to execute a scheme and artifice to defraud a health care benefit program and to obtain by means of false or fraudulent pretenses, representations or promises money and property owned by or under the custody or control of a health care benefit program in connection with the delivery of or payment for health care benefits, items or services to the patients named in Counts 113 – 133 below. The scheme and artifice to defraud is set out in the Manner and Means section of Count 3 and is incorporated by reference as if fully set out herein.

Count	Last Name	First Name	Date
113	Alphin	Robert	03/20/2000
114	Billing	Elburdie	03/20/2000
115	Gay	Gladys	03/20/2000
116	Goodman	Verneil	03/20/2000
117	Watson	Lawrence	03/20/2000
118	Williams	Elbert	03/20/2000
119	Anderson	Annie	07/24/2000
120	Bryant	Leslie	07/24/2000
121	Chambliss	Herman	07/24/2000
122	Finks	John	07/24/2000
123	Jefferson	Tempers	07/24/2000
124	Molden	Onie	07/24/2000
125	Purifoy	Gertrude	07/24/2000
126	Thrower	Emma	07/24/2000
127	Wilson	Iola	07/24/2000
128	Sterling	Raymond	07/31/2000
129	Wheelington	Eloise	07/31/2000
130	Bumpass	Harry	01/22/2001
131	Castleberry	Erma	01/22/2001

132	Cross	Buele	01/22/2001
133	Thrower	Emma	01/22/2001

All in violation of Title 18, U.S.C. §1347.

COUNT 134

Violation: Title 18 U.S.C. §
1956(h)(Conspiracy to
Promote the Carrying on of
Specified Unlawful Activity in
violation of Title 18 U.S.C.
§1956(a)(1)(A)(i))

The following sections of this Indictment are realleged and incorporated by
reference as though fully set forth herein:

Definitions section of Count 1;

Introduction section of Count 1;

Overt Act 1 of Count 2; and

Counts 5 through 8 of this Indictment.

On or about the dates listed below, in Bowie County, in the Eastern District of
Texas and elsewhere, JAMES NAPLES, LINDA VELVIN, and NEW BOSTON
GENERAL HOSPITAL, INC., defendants herein, together and with others known and
unknown to the Grand Jury, did unlawfully and knowingly combine, conspire, confederate,
and agree among themselves and each other, knowing that the property involved in a
financial transaction represented the proceeds of some form of unlawful activity, to
conduct such a financial transaction which in fact involved the proceeds of specified
unlawful activity, namely mail fraud (18 U.S.C. §1341), wire fraud (18 U.S.C. §1343) and
health care fraud (18 U.S.C. §1347), with the intent to promote the carrying on of specified
unlawful activity, all in violation of 18 U.S.C. §1956(h) as described more fully below.

MANNER AND MEANS

The defendants engaged in a conspiracy to illegally launder money obtained by

materially false statements and representations made to others in the course and scope of their activities to commit mail fraud (18 U.S.C. §1341) as set forth in Overt Act 1 of Count 2, wire fraud (18 U.S.C. §1341) as set forth in Count 4, and Health Care Fraud (18 U.S.C. §1347) as set forth in Counts 5 through 8 of this Indictment. This conspiracy to launder money was executed by recruiting cancer patients to NEW BOSTON GENERAL HOSPITAL, INC. for treatments. Following said treatments, the DEFENDANTS would submit claims to Medicare and private insurers for hospital care which included an experimental and unapproved cancer treatment with a chemical designated as a Class V poison by the FDA and which was unapproved for medical use on humans without first advising Medicare and the private insurers that the treatment was experimental and unapproved. In fact, the defendants concealed the true nature of the treatments actually rendered from Medicare and the private insurers. Thereafter, payments were made to the defendants by Medicare and the private insurers based upon the fraudulent claims which had been submitted. These payments were deposited into various accounts of the defendant NEW BOSTON GENERAL HOSPITAL, INC. Financial transactions were then conducted with the funds in these accounts, which included transfers between the various accounts and payments to Texas Pharmaceuticals and defendants JAMES NAPLES and LINDA VELVIN.

OVERT ACTS

The following financial transactions of fraudulently obtained funds occurred on or about the dates indicated and by the methods described, from NEW BOSTON GENERAL HOSPITAL, INC.'s accounts at Century Bank, Texarkana, Texas and JAMES NAPLES account #8030476617 at Regions Bank, Texarkana, Arkansas:

Date Cleared	Account Number	Payee	Check Number	Check Amount
03/12/1998	# 4422538	Linda Velvin	23632	\$ 557.43
03/25/1998	# 4422538	Linda Velvin	23253	\$ 637.34
08/12/1998	# 4422538	Linda Velvin	24635	\$ 470.99
10/07/1998	# 4422538	Linda Velvin	25116	\$ 770.26
10/28/1998	# 4422538	Linda Velvin	25309	\$ 1,439.20
11/05/1998	# 4422538	Linda Velvin	25314	\$ 924.40
05/07/1999	# 4422538	Linda Velvin	26842	\$ 747.60
08/10/1999	# 4422538	Linda Velvin	27733	\$ 747.60
10/06/2000	# 4422538	Linda Velvin	32712	\$ 746.69
		Transfer from account number 4422511 to account number 4422538		\$ 75,000.00
11/23/1998				\$ 75,000.00
03/13/1998	#4422546	James Naples	20970	\$ 20,000.00
10/06/1998	#4422546	James Naples	22758	\$ 31,536.00
05/17/1999	#4422538	James Naples	26954	\$ 50,000.00
02/29/2000	#4422546	James Naples	26536	\$ 60,000.00
02/28/2000	#8030476617	Texas Pharmaceuticals	5601	\$ 18,000.00
09/25/2000	#4422538	James Naples	32596	\$ 30,358.00
08/02/1999	#4422546	James Naples	24410	\$ 10,000.00